

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA *ex rel.*
PETER CIMMA,

Plaintiff,

v.

Civil Action, File No. 14-CV-1381

SIKORSKY SUPPORT SERVICES, INC., and
DERCO AEROSPACE, INC.,

Defendants.

UNOPPOSED MOTION TO CONSOLIDATE CASES

The parties, by their undersigned counsel, hereby jointly move pursuant to Federal Rule of Civil Procedure 42(a) to consolidate for purposes of pretrial practice and trial this matter with the civil action titled *United States ex rel. Patzer v. Sikorsky Aircraft Corporation et al.*, No. 11-cv-560.

Rule 42(a) permits consolidation of actions pending before the Court that “involve a common question of law or fact.” Fed. R. Civ. Pro. 42(a). The Court should consolidate cases sharing a common question of law or fact when doing so will further the interests of judicial economy, avoidance of delay, and avoidance of inconsistent or conflicting results. *Habitat Ed. Ctr., Inc. v. Kimbell*, 250 F.R.D. 390, 394 (E.D. Wis. 2008).

Here, the *Patzer* and *Cimma* cases share several common questions of law and fact. Defendant Sikorsky Support Services, Inc. (“SSSI”) was awarded two successive contracts by the Navy to maintain its T-34, T-44, and T-6 training aircraft. SSSI, in turn, engaged an affiliated company, Defendant Derco Aerospace, Inc. (“Derco”), to procure and manage the parts and materials necessary to maintain the aircraft in the performance of both prime contracts. In

the *Patzer* case, the government alleges that in the performance of the first of SSSI's prime contracts: (1) SSSI and Derco agreed to an illegal cost-plus-percentage-of-cost subcontract for the parts and materials that resulted in excessive and improper billings to the government; and (2) that SSSI and Derco agreed that Derco would provide improper kickbacks to SSSI. In the *Cimma* case, the government raises these same two allegations with respect to the performance of the second of SSSI's prime contracts. Although the specifics of the government's claims in the two cases differ in some respects, the cases share several basic common questions of law and fact, including whether the defendants violated the statutory prohibition on cost-plus-a-percentage-of-cost subcontracting and whether they agreed to an improper kickback arrangement.

Consolidation of the two cases for purposes of pretrial practice and trial will also further the interests of the Court and the parties. Many of the documents and witnesses in the two cases overlap, and, accordingly, consolidation will facilitate discovery and avoid redundancy. Motion practice should also be streamlined by consolidating the cases because the parties raise many of the same claims and defenses in both matters. A joint trial will also conserve the resources of the Court, the parties, and the witnesses, while also avoiding the potential for inconsistent results.

Finally, the parties anticipate that they will file a joint proposal for a case management plan for the two matters if the Court grants their motion to consolidate them.

Counsel certifies that no separate memorandum will be filed.

Respectfully submitted this 1st day of November, 2017.

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